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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re VERNON S., a Person Coming Under  
the Juvenile Court Law.

B188262  
(Los Angeles County  
Super. Ct. No. JJ13389)

THE PEOPLE,

Plaintiff and Respondent,

v.

VERNON S.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, S. Robert Ambrose, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Reversed.

Steven A. Torres, under appointment by the Court of Appeal, and Torres & Torres for Defendant and Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney General, Pamela C. Hamanaka, Senior Assistant Attorney General, Stephanie C. Brennan and Michael C. Keller, Deputy Attorneys General, for Plaintiff and Respondent.

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Vernon S. appeals from the order of wardship entered following a finding of misdemeanor contempt for failing to obey a court order. He was placed home on probation and contends that the evidence was insufficient to support the finding and that two of his probation conditions were improper. We reverse on the basis of insufficient evidence and therefore do not reach the probation conditions issues.

### **BACKGROUND**

The minor was charged with disobeying “GANG INJUNCTION, BC330087” on October 8, 2005. At a hearing adjudicating the minor and Darin P. (who is not a party to this appeal) on the same charge, Los Angeles Police Officer Oscar Villarreal testified that he had received training in gang issues, was familiar with the Grape Street Crips, and was familiar with the gang injunction that had been signed by Los Angeles Superior Court Judge Munoz. (The injunction itself was not introduced into evidence.) The area covered by the injunction, which Villarreal sometimes referred to as the “safety zone,” “begins at 92nd Street at Alameda, goes south to Santa Ana Boulevard north. Continues northwest direction to 108th Street and continuing West 108th Street to Compton Avenue to northbound on Compton to 103rd Street and goes east to Success and north to 92nd and heading back east to Alameda and extends 100 yards out from the boards all around.” The Grape Street Crips operate “[m]ostly in the Jordan Downs housing development area,” and Jordan Downs is near the center of the injunction boundaries. The logo of the gang is “mostly grapes.” “There are different cli[que]s in the gang. Within those boundaries they would either tag up grapes from a grapevine or certain abbreviation for a cli[que] within Grape Street.”

Villarreal further testified that the “[t]he court order specifies any known or admitted Grape Street Crip members is not to associate with any other known Grape Street Crip members within the designated safety zone.” Villarreal had personal knowledge that the minor and Darin were members of the Grape Street Crips. (The minor admitted membership and has a gang tattoo on his arm.) Individual names were not listed on the injunction orders served on the minor or on Darin.

Villarreal served the gang injunction on Darin on October 8, 2005, at 2:30 p.m. At 7:45 p.m. that day, Villarreal saw the minor, Darin, and two other known Grape Street Crips members associating with each other in a parking lot at Jordan Downs.

Officer Christopher Reza, who had also received gang training and was familiar with the Grape Street Crips, knew the minor to be a member of the gang and served a copy of the injunction on him on July 30, 2005. Reza further testified that officers can determine whether someone is a gang member “[t]hrough contacts, conversations, admittance and affiliations, associations with any known Grape Street known gang members.” Reza was asked: “If you see 2 Grape Street Gang members across the street and Mr. Jones is talking to them you can determine Mr. Jones is a Grape Street gang member?” Reza answered: “By visually looking at him no.”

Darin testified that he is not a member of the Grape Street Crips. He does not live in Jordan Downs, but he goes there every day to see his grandmother.

The minor testified that he his not a member of the Grape Street Crips and had not been served with a gang injunction. The minor and his grandmother both testified that a tattoo on the minor’s arm contains a reference to the minor’s deceased father and is not a gang tattoo.

Following argument of counsel, the court recognized that “[n]o one wears [a] uniform that states I am in a gang or not.” The court concluded that the allegations against the minors had been proven beyond a reasonable doubt and placed both minors home on probation.

## **DISCUSSION**

As noted, the actual court order that the minor was found to have willfully violated was not introduced into evidence in his case. But regardless of the words printed on the order, because the order was a gang injunction the prosecution “would have to establish a defendant’s *own knowledge* of his associate’s gang membership to meet its burden of proving conduct in violation of the injunction.” (*People ex rel. Gallo v. Acuna* (1997) 14 Cal.4th 1090, 1117.) We agree with the minor that the evidence was insufficient to establish such knowledge.

On appeal, we are required to consider the totality of the evidence presented below, including the reasonable inferences to be drawn from that evidence, and conduct our review in the light most favorable to the People. (*People v. Coffman and Marlow* (2004) 34 Cal.4th 1, 90; *In re George T.* (2004) 33 Cal.4th 620, 630–631.) The Attorney General argues that, given the limited geographic area covered by the injunction, it is reasonable to infer that one active Grape Street Crips member would know that others with whom he was associating in a parking lot at Jordan Downs were also members of the gang. We conclude that such an inference is not sufficiently reasoned.

The injunction served on the minor did not identify other members of the Grape Street Crips. And while the boundaries of the injunction were well described, no evidence was presented regarding how many people reside within those boundaries, nor how many members of the Grape Street Crips reside in or frequent the Jordan Downs area. As such, we are in the dark as to whether the gang is sufficiently small to render it reasonable that all members would know one another, or of a large enough size that all of the purported gang members might not recognize one another.

In addition, the gang itself has different cliques, and no evidence was presented as to the relationship between the members of the different cliques. Finally, although evidence was presented with respect to whether the minor had a gang tattoo, no evidence was presented regarding the appearance of Darin or the other two persons with whom the minor was associating in the parking lot. And as Officer Reza testified, one cannot determine who is a gang member by simply looking at him. Accordingly, a reasonable inference cannot be drawn from the evidence presented here that the minor knowingly associated with other members of the Grape Street Crips gang.

**DISPOSITION**

The order of wardship is reversed.

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MALLANO, Acting P. J.

We concur:

ROTHSCHILD, J.

JACKSON, J.\*

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.